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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,821	03/29/2001	Michel Roger	713-417	1461

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04/07/2004

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EXAMINER

ZACHARIA, RAMSEY E


ART UNIT

PAPER NUMBER

1773

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/819,821	Applicant(s) ROGER, MICHEL 	
	Examiner Ramsey Zacharia	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 March 2004 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. Claims 34-36, 38-47, and 49-55 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. The limitation that the coating has a thickness of "up to a few tens of microns" appears to be new matter. The specification supports a coating having a thickness of a "around few tens of microns" (see page 2, lines 28-29). However, the range "up to a few tens of microns" means any thickness that is greater than zero and no more

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than a few tens of microns and includes thicknesses that are significantly below a few tens of microns.

Claim Rejections - 35 USC § 102

4. Claims 34, 35, 37, 43, 48, 53, and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Martucci (U.S. Patent 5,170,011).

Martucci teach a hose for conveying fuel (column 1, lines 5-17). The hose comprises an inner layer of a fluoropolymer such as polytetrafluoroethylene and has a thickness as low as 0.001 inches, i.e. 25 microns (column 2, lines 43-51). The outer layer comprises a polyamide, i.e. plastic (column 2, lines 66-68). The hose may be formed by etching a fluoropolymer tube followed by extruding a polyamide layer over the etched surface, resulting in a mechanical bond between the layers (column 4, lines 40-48).

The emission of hydrocarbons through a material is a function of the material and its thickness. Because the fluoropolymer layer of Martucci is formed of the same material (PTFE) and the same thickness (25 microns) as that of the instant invention, it is taken to possess the same rate of transmission of hydrocarbons.

Claim Rejections - 35 USC § 103

5. Claims 36, 41, 49, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci (U.S. Patent 5,170,011) in view of Andre (U.S. Patent 5,799,704).

Martucci teaches all the limitations of claims 36, 41, 49, and 55, as outlined above, except for the presence of a rubber portion.

Andre is directed to pipes for conveying fuel in motor vehicles (column 1, lines 5-10). The pipe comprises a thermoplastic inner layer and a vulcanized elastomer (i.e. rubber) layer as a protective layer (column 1, line 63-column 2, line 1). Polyamide is the preferred material for the thermoplastic layer (column 2, lines 57-59). Nitrile PVC is a suitable material for the protective outer layer (column 2, lines 20-26).

One of ordinary skill in the art would be motivated to apply an elastomer layer, such as nitrile PVC, over the polyamide layer of Martucci to provide protection to the polyamide.

Response to Arguments

6. Applicant's arguments filed 17 March 2004 have been fully considered but they are not persuasive.

The applicant argues that Martucci describes a composite with a fluoropolymer inner layer as opposed to the instant claims which use merely a coating of polytetrafluoroethylene.

This is not persuasive because there is only a semantic difference between a layer and a coating. Both Martucci and the instant invention teach a part for a motor vehicle adapted to house and transport fuel that comprises a portion of plastic or rubber and a polytetrafluoroethylene bonded to the plastic or rubber between the plastic or rubber and the fuel. Whether the polytetrafluoroethylene component is referred to as a "coating" or a "layer" is a semantic and not a structural difference.

The applicant also argues that the PTFE layer of Martucci is designed to provide resistance to chemical and heat degradation but says nothing about reducing hydrocarbon emissions.

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This is not persuasive because the emission of hydrocarbons through a material is a function of the material and its thickness. Because the fluoropolymer layer of Martucci is formed of the same material (PTFE) and the same thickness (25 microns) as that of the instant invention, it is taken to possess the same rate of transmission of hydrocarbons.

The applicant further argues that the wall thickness of Martucci is generally greater than those of the present PTFE coatings.

While it is true that Martucci discloses thicknesses that are greater than the range claimed in the instant invention, Martucci explicitly teaches a thickness, 0.001 inches ($\sim 25 \mu\text{m}$), that is within the claimed range. Therefore, Martucci anticipates the claims, since a value within the range is explicitly taught.

Finally, the applicant argue that polyamide, used in the hose of Martucci, is not a plastic but rather a fiber, citing page 35 of Principles of Polymerization by Odian.

This is not persuasive for the following reasons. Table 1-4 on page 35 of Odian indicates that polyamides are used as fibers. Not that polyamides *are* fibers, but rather that they can be *used* as fibers. Table 1-4 also indicates that polyamides are also used as plastics. Undoubtedly polyamides may be used as fibers, but clearly the polyamide layer of Martucci is a layer and not a fiber. The hose of Martucci may comprise a braided or woven layer of glass fibers, but this layer is separate from the polyamide layer.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Zacharia whose telephone number is (571) 272-1518. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (571) 272-1516. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ramsey Zacharia
Primary Examiner
Tech Center 1700**